

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

In re:
Shonda Renee McCaig
1724 University Drive
Columbia, TN 38401
xxx-xx-2338
Debtor.

BK: 13-04839-KL1-13

The Deadline for Filing a Timely Response Is: 2/19/15
If a Response Is Timely Filed, the Hearing Will Be Held On: 3/13/15
Time: 9:00 AM
Location: Columbia Federal Bldg, 815 S Garden St., Columbia, TN 38401

NOTICE OF MOTION UNDER RULE 3002.1 FRBP

Shonda Renee McCaig has asked the court for the following relief: Motion under Rule 3002.1 Federal Rules of Bankruptcy Procedure.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion, or if you want the court to consider your views on the motion, then on or before 2/19/15, you or your attorney must:

1. File with the Court your response or objection explaining your position. PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE IS A MANDATORY ELECTRONIC CASEFILING COURT. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <https://ecf.tnmb.uscourts.gov>.
If you need assistance with Electronic Case Filing you may call the Bankruptcy Court at (615) 736-5584. The Bankruptcy Court may be visited in person
at: U.S. Bankruptcy Court, 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.)
2. **Your response must state that the deadline for filing responses is 2/19/15, the date of the scheduled hearing is 3/13/15 and the motion to which you are responding is Motion Under Rule 3002.1 FRBP.** If you want a file stamped copy returned, you must include an extra copy and a self-addressed, stamped envelope.
3. You must also mail a copy of your response to:

J. Robert Harlan - BPR No. 010466
Harlan, Slocum & Quillen
Attorney for the Debtor
39 Public Square
PO Box 949
Columbia, TN 38402-0949
Phone - 931/381-0660
Fax - 931/381-7627
bknotices@robertharlan.com

U.S. Trustee
318 Customs House
701 Broadway
Nashville TN 37203
ustpreion08.na.ecf@usdoj.gov

Henry E. Hildebrand, III
Chapter 13 Trustee
P.O. Box 340019
Nashville, TN 37203-0019
Phone 615/244-1101
pleadings@ch13nsh.com

If a timely response is filed, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at 615-736-5584 or viewing the case on the Court's web site at <www.tnmb.uscourts.gov>. If you received this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: January 29, 2015

/s/ J. ROBERT HARLAN
J. ROBERT HARLAN - BPR No. 010466
Harlan, Slocum & Quillen
Attorney for the Debtor
39 Public Square
PO Box 949
Columbia, TN 38402-0949
Phone - 931/381-0660
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**MOTION FOR A DETERMINATION UNDER
RULE 3002.1 FRBP RELATED TO THE CLAIM OF Selene Finance LP**

Comes the debtor through counsel and would request the court to enter an Order pursuant to Rule 3002.1 that determines the appropriate amount of change, if any, to be allowed for the claim of Selene Finance LP. For cause the debtor would show the Court as follows:

1. The Chapter 13 Case was filed May 31, 2013 and the claim of Carrington Mortgage Services was included in Schedule D as a debt secured by the principle residence of the Debtors.
2. A Proof of Claim was filed by Christiana Trust, A Division of Wilmington Savings Fund Society, FSB, as Trustee for Stanwich Mortgage Loan Trust, Series 2012-14, c/o Carrington Mortgage Services, LLC was filed on October 7, 2013.
3. The Proof of Claim included an escrow analysis that reflected escrow expenses of \$662.00 for hazard insurance, \$671.00 for county tax and \$338.00 for city tax. These expenses required monthly payments of \$139.25. The continuing payment also included a monthly escrow shortage of \$69.62, making the continuing payment \$588.11 Principal and Interest, plus \$139.25 escrow, plus \$69.62 shortage for a total of \$796.98. The Proof of Claim also included an escrow shortage of \$1,599.32 in the arrearage.
4. The account was transferred to Selene Finance LP and a Notice of Transfer was filed with the court on July 16, 2014.
5. A notice has been filed in the case (ECF 54) that seeks to change the continuing mortgage payment based upon changes to applicable expenses. The Notice includes an escrow

analysis that reflects expenses of \$713.00 for hazard insurance, \$648.00 for county tax and \$356.00 for city tax, making the required monthly payment \$143.09.

6. Despite an increase in annual expenses of only \$46.00, this analysis reflects an escrow shortage of \$1,717.72. The continuing payment that Selene is seeking through this Notice of Payment change is \$588.11 Principal and Interest, plus \$143.09 escrow, plus \$143.14 shortage for a total payment of \$874.34.

7. The Debtor objects to the changes in the notice and request a hearing under Rule 3002.1 and an Order from this Court that disallows the changes sought in that notice.

8. The Debtor further contends that the document filed by Selene Finance LP (ECF 54) was incorrectly filed and attempts to increase the mortgage payment for charges that are not justified and therefore the notice is a violation of Rule 3002.1(i) FRBP that supports an award of attorney fees and expenses to Debtors' counsel for bringing this action.

Based upon the foregoing the Debtor requests that this Court:

1. After notice pursuant to Rule 9013, and an opportunity for a hearing thereon, that an Order be entered that denies the increase in mortgage payments or other charges sought by Selene Finance LP in the document filed in the case (ECF 54).
2. That the Court enter an award of attorney fees and expenses to counsel for the Debtors after a finding that the notice filed by Selene Finance LP failed to satisfy the requirements of Rule 3002.1 FRPB.
3. For such other relief as the Court deems appropriate.

Respectfully submitted January 29, 2015.

/s/ J. ROBERT HARLAN
J. ROBERT HARLAN - BPR No. 010466
Harlan, Slocum & Quillen
Attorney for the Debtor
39 Public Square

PO Box 949
Columbia, TN 38402-0949
Phone - 931/381-0660
Fax - 931/381-7627
bknotices@robertharlan.com

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have mailed a true and exact copy of the foregoing to the affected creditor :

Christiana Trust, A Division of Wilmington Savings Fund Society, FSB, as Trustee
Stanwich Mortgage Loan Trust, Series 2012-14
500 Delaware Ave, 11th Floor
Wilmington, DE 19801

Selene Finance LP
99902 Richmond Ave, Ste 400S
Houston, TX 77042

Selene Finance LP
c/o Its Registered Agent
CT Corporation System
800 S Gay Street, Ste 2021
Knoxville, TN 37929-9710

to Henry E. Hildebrand, III the Chapter 13 Trustee pleadings@ch13nsh.com, and to the U.S. Trustee's Office, by placing the same in the U.S. Mail, postage pre-paid, January 29, 2015.

/s/ J. ROBERT HARLAN
J. ROBERT HARLAN - BPR No. 010466
Harlan, Slocum & Quillen

In re:

Shonda Renee McCaig
Debtor

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**ORDER UNDER RULE 3002.1 TO
DISALLOW THE CHANGE IN MORTGAGE CLAIM**

This Order is submitted to the Court by the Debtor for the purpose of approving a Motion by the Debtor under Rule 3002.1 Federal Rules of Bankruptcy Procedure to deny changes to the mortgage claim sought by Selene Finance LP by a document filed in the case (ECF 54). Notice having been given and no timely objection raised the Court finds the Motion should be granted.

IT IS THEREFORE ORDERED:

1. The change to the mortgage claim sought by Selene Finance LP in the document filed in this case (ECF 54) is denied and the claim shall remain unchanged.
2. The notice filed by Selene Finance LP in this case is deemed inadequate and therefore fails to satisfy the requirements of Rule 3002.1(c) and (i) and that counsel for the Debtor is awarded attorney fees and expenses incurred in bringing this Motion before the Court.

This order was signed and entered electronically as indicated at the top of the page.

APPROVED FOR ENTRY:

/s/ J. ROBERT HARLAN
J. ROBERT HARLAN - BPR No. 010466
Harlan, Slocum & Quillen
Attorney for the Debtor
39 Public Square
PO Box 949
Columbia, TN 38402-0949
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CERTIFICATE OF COMPLIANCE

I, the undersigned, do hereby certify that I have mailed a true and exact copy of the foregoing to the affected creditor:

Christiana Trust, A Division of Wilmington Savings Fund Society, FSB, as Trustee
Stanwich Mortgage Loan Trust, Series 2012-14
500 Delaware Ave, 11th Floor
Wilmington, DE 19801

Selene Finance LP
99902 Richmond Ave, Ste 400S
Houston, TX 70042

Selene Finance LP
c/o Its Registered Agent
CT Corporation System
800 S Gay Street, Ste 2021
Knoxville, TN 37929-9710

to Henry E. Hildebrand, III the Chapter 13 Trustee pleadings@ch13nsh.com, and to the U.S. Trustee's Office, by placing the same in the U.S. Mail, postage pre-paid, January 29, 2015.

/s/ J. ROBERT HARLAN
J. ROBERT HARLAN - BPR No. 010466
Harlan, Slocum & Quillen
Attorney for the Debtor
39 Public Square
PO Box 949
Columbia, TN 38402-0949
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